

HOUSE BILL 2132

By Fitzhugh

AN ACT to amend Tennessee Code Annotated, Title 45,
Chapter 15, Part 1, relative to title pledges.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 45-15-102, is amended by adding the following language as a new subdivision (5):

(5) Prohibit abusive or predatory practices by title pledge lenders.

SECTION 2. Tennessee Code Annotated, Section 45-15-104(b), is amended by deleting the following language in its entirety:

No action shall be brought by a pledgor against a title pledge lender in connection with a title pledge agreement or property pledge agreement more than one (1) year after the date of the alleged occurrence of any violation of this chapter.

SECTION 3. Tennessee Code Annotated, Section 45-15-107(c), is amended by adding the following language to the end of the present language as a new sentence thereto:

Any person or entity who has filed a complaint with the department of financial institutions about a title pledge lender shall be provided with written notice of the hearing, at least twenty (20) days prior to the date of such hearing, and shall be provided with the opportunity to participate in the hearing, including the opportunity to be heard and present evidence related to the title pledge lender's fitness to maintain its license.

SECTION 4. Tennessee Code Annotated, Section 45-15-109(b), is amended by adding the following language as a new subdivision:

(7) The filing of any civil action against the title pledge lender alleging fraud, misrepresentation, deceit or any other misconduct related to the operation of the title pledge lender's business either in or outside the state of Tennessee.

SECTION 5. Tennessee Code Annotated, Section 45-15-109(c), is amended by deleting subdivision (4) in its entirety and by substituting instead the following language:

(4) The information submitted by title pledge lenders pursuant to this subsection (c) shall be available to any member of the public upon written request, in any form prescribed by the commissioner, within ninety (90) days of such request.

SECTION 6. Tennessee Code Annotated, Section 45-15-111(a), is amended by deleting the present language in its entirety and by substituting instead the following language:

(a) A title pledge lender shall contract for and receive an effective rate of interest not to exceed two percent (2%) per month; additionally, the title pledge lender may charge, contract for, and receive a customary fee to defray the ordinary costs of operating a title pledge office, including, but not limited to, investigating the title, appraising the titled personal property, insuring the personal property when in the physical possession of the title pledge lender, documenting and closing the title or property pledge transaction, making required reports to local law enforcement officials, for all other services provided by the title pledge lender, advertising, for losses on title pledge or property pledge transactions, salaries, and for all other expenses incurred by the title pledge lender except those in subsection (b). Such a fee shall not be deemed interest for any purpose of law, and such fee may equal no more than one fifth (1/5) of the original principal amount of the title pledge agreement or property pledge agreement. This fee may be charged as a one-time fee in conjunction with the making of the title pledge or property pledge agreement, but cannot be charged in conjunction with subsequent renewals.

SECTION 7. Tennessee Code Annotated, Section 45-15-113, is amended by deleting subsection (b) in its entirety and by substituting instead the following language:

(b) Each title pledge lender shall furnish the pledgor with a statement at least five (5) days prior to the beginning of any period of renewal of the title pledge agreement. The statement shall include the agreement number, the annual percentage rate, the monthly rate of interest, the monthly fee rate, the original principal balance of the loan, the current payoff balance of the loan, the amount of all renewal fees, and the amount of any interest, fees or other reimbursements allowed pursuant to § 45-15-111(b) that have accrued since the last statement required by this subsection (b) was issued to the pledgor. The statement shall also include the payment amount required to pay off the title pledge loan in full if such payment is made with cash or certified funds by the end of the title pledge agreement or any renewal thereof, and the exact date through which that payoff balance will be honored. Further, if the title pledge loan is past due, the statement shall also include the number of days past due as of the statement date, the minimum payment required and the exact date by which such minimum payment must be received in order to reinstate the account to current status. The statement shall also include the telephone number, the normal business hours of operation, and the primary contact person at the office of the title pledge lender. The statement shall be sent to the pledgor by first class mail, postage prepaid, within five (5) days of the end of the title pledge agreement.

SECTION 8. Tennessee Code Annotated, Section 45-15-113, is further amended by deleting subsection (d) in its entirety and by substituting instead the following language:

(d) Notwithstanding any provision of this chapter to the contrary, beginning with the third renewal or continuation and at each successive renewal or continuation thereafter, the pledgor shall be required to make a payment of at least ten percent (10%) of the original principal amount of the title pledge transaction, in addition to interest authorized by this chapter. Interest authorized by this chapter at each successive

renewal or continuation shall be calculated on the outstanding principal balance.

Principal payments in excess of the ten percent (10%) required principal reduction shall be credited to the outstanding principal on the day received.

SECTION 9. Tennessee Code Annotated, Section 45-15-119, is amended by deleting the section in its entirety and by substituting instead the following language:

§ 45-15-119. In addition to the administrative remedies provided in the preceding section, any title pledge borrower aggrieved by a violation of any of the provisions of this title by a title pledge lender shall be entitled to bring a civil lawsuit against such title pledge lender in a court of competent jurisdiction within two (2) years of the reasonable date of discovery of such violation. Any violation of this chapter shall be deemed a violation of the Tennessee Consumer Protection Act of 1977, compiled in title 47, chapter 18, part 1, and an aggrieved pledgor shall have all remedies available under that act. In addition to the remedies under that act, a person injured by a violation of this chapter may recover one-fourth (1/4) of the total damages or a penalty of two thousand dollars (\$2,000). In addition, a court, in its discretion, may award punitive damages.

SECTION 10. This act shall take effect July 1, 2007, the public welfare requiring it.